IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.291 OF 2006

Maqbul Haji Basha Bagwan .. Petitioner.
Vs.
Shaikh Nazeeruddin Mohd. Jaffar & Ors. .. Respondents.

Mr.R.S.Apte i/b Mandar Limaye for the petitioner.
Mr.N.K.Iyer for respondent nos.1 to 3.
Mr.P.A.Pol A.P.P. for the State.

CORAM : D.B.BHOSALE, J.

DATED : 18TH JULY, 2006

P.C.:

. Heard learned counsel for the petitioner and respondent nos.1 to 3 and learned A.P.P. for the State.

2. The petitioner has impugned the order dated 17.12.2005 passed below Exhibit-22 application filed by the respondent-opponents. By the impugned order the hearing of criminal miscellaneous application no.111 of 2000 has been stayed. That application (No.111 of 2000) has been filed by the petitioner under section 68(2)(3(4) of the Wakf Act, 1995 seeking direction to the respondents-accused to deliver the charge and possession of records, accounts and properties (including cash) of the wakf known as as Jame Masjid, Pune City, Pune bearing PTR No.B-36,

situate at 1606, Shukrawar Peth, Pune-2, to the petitioner. Mr.Iyer, learned counsel for respondent nos.1 to 3 at the outset raised a preliminary objection that application under section 68 filed by the petitioner itself is not maintainable since admittedly, the respondent-accused are not removed by the board in accordance with the provisions of Wakf Act, 1995 or any scheme made by the board. According to Mr.Iyer, all the seven trustees hold the charge of the Wakf. Mr.Apte, learned counsel for the petitioner had no reply to the aforesaid preliminary objection raised by the respondents. Admittedly, the respondents are not removed trustees/Mutawallis. Keeping this in view and considering the provisions of section 68 of the Wakf Act, in my opinion, the said application itself is not maintainable and hence there is no need to interfere with the order impugned in the instant writ petition. The writ petition is, accordingly, dismissed.

(D.B.Bhosale, J.)